

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 05-80617

SERINA MONIQUE-YVONNE
FARRELL (D-13),

HONORABLE AVERN COHN

Defendant .

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**ORDER DENYING GOVERNMENT'S MOTION FOR
RECONSIDERATION OF ORDER OF AUGUST 16, 2005**

This is a criminal case. On August 16, 2005, the Court granted defendant's request for revocation of an order of a magistrate judge ordering detention pending trial, and granted defendant pretrial release under defined conditions. A formal order memorializing the Court's ruling was entered August 19, 2005.

On August 17, 2005, the government appealed the order granting pretrial release to the Court of Appeals for the Sixth Circuit. Incongruously, on August 24, 2005 the government filed a motion styled Government's Motion for Reconsideration and Supplemental Brief in Support of Request for Pretrial Detention.

At the hearing on August 16, 2005, the Court stated:

I find nothing in this record to suggest that this woman is a danger to the community. I have given you the opportunity to file supplemental papers, which I will consider after they are filed within one week and defense counsel has had the

opportunity to respond to them, to suggest to me that I have misapprehended the nature of her personality and the potential for her to do harm should she be in the community. As things stand now, I do not find any potential harm to the community, and I do not find that the government has established it. The government has made a number of statements which are not supported in the record before me. The government has the opportunity if it wants to file affidavits of the agents or other material to expand on its reasons of why this defendant represents a danger to the community.

Given that the government has appealed the order granting defendant pretrial release rather than taking the opportunity to persuade the Court it erred, it would be inappropriate for the Court to consider the Motion. Rather than take the opportunity, it appealed. There is a Russian proverb which says you cannot ride two horses at the same time. The government cannot appeal an order and then ask for reconsideration. The appeal must run its course.

The Motion for Reconsideration is DENIED.

SO ORDERED.

Dated: August 30, 2005

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was sent to counsel of record on this date, August 30, 2005, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160